

Applicant: John Robert Davies  
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### **REMARKS**

This is a response to the Office Action dated November 4, 2009. Claims 19-57 are pending. In the Office Action dated November 4, 2009, Claims 19-57 were rejected on the ground of non-statutory double patenting over claims 1-5 and 7-8 of U.S. Patent No. 6,446,696. Claims 19-57 were also provisional rejected on the ground of non-statutory double patenting over pending claims of U.S. Patent Application Serial No. 11/826,222. Additionally, Claims 25, 35, and 42-43 were objected to for lack of antecedent basis. Claims 19-32, 34-37, 39, 41-48, 51-54, and 56 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,842,890 (“Kramer”) in view of U.S. Patent No. 5,505,244 (“Thumann”). Finally, Claims 32, 33, 38, 40, 49, 50, 55, and 57 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kramer in view of Thumann and further in view of U.S. Patent No. 4,651,479 (“Kersavage”).

With this response, claims 19-57 have been canceled, and claims 58-71 have been added. Claims 58-71 do not add new matter and are fully supported by the specification. Reconsideration of the application is respectfully requested in light of these claims and the following remarks.

### **REJECTIONS ON THE GROUNDS OF NON-STATUTORY DOUBLE PATENTING**

In the Office Action dated November 4, 2009, Claims 19-57 were rejected on the ground of nonstatutory double patenting over claims 1-5 and 7-8 of U.S. Patent No. 6,446,696. Claims 19-57 were also provisional rejected on the ground of nonstatutory double patenting over pending claims of U.S. Patent Application Serial No. 11/826,222. With this response, claims 19-57 have been canceled, and claims 58-71 have been added. Applicants respectfully submit that

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the previous rejections on double patenting ground are not appropriate with regard to new claims 58-71. Accordingly, Applicants respectfully request that these rejections to the claims be withdrawn.

## **OBJECTIONS TO THE CLAIMS**

Claims 25, 35, and 42-43 were objected to for lack of antecedent basis. With this response, Claims 25, 35 and 41-42 have been canceled. Accordingly, Applicants respectfully request that these objections of these claims be withdrawn.

## **REJECTIONS UNDER 35 U.S.C. § 103(a)**

### **A. Rejections over Kramer in view of Thumann**

In the Office Action, Claims 19-32, 34-37, 39, 41-48, 51-54, and 56 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kramer in view of Thumann. With this response, Claims 19-32, 34-37, 39, 41-48, 51-54, and 56 have been canceled. Accordingly, Applicants respectfully request that these rejections of these claims be withdrawn. Moreover, Applicants submit that new Claims 58-71 are patentable over the combination of Kramer and Thumann because these references, either alone or in combination, fail to disclose each and every feature of the claims.

### **1. Claims 58 and 65**

Independent claims 58 recites a closure frame that include “a jamb having a hollow bound on three sides and defining a jamb pocket portion, the jamb and the jamb pocket portion being a one piece unit, the closure frame having an assembled state wherein the closure frame is

mounted in an opening of a building,” and “wherein [a] retractable screen and spring biased roller are removable from the jamb pocket portion when the closure assembly is in the assembled state such that the closure frame remains in the assembled state when the screen is removed from the jamb pocket portion.” Similarly, claim 65 recites a window frame that includes, “a jamb having a hollow bound on three sides and defining a jamb pocket portion, the jamb and the jamb pocket portion being a one piece unit, the window frame having an assembled state wherein the window frame is mounted in an opening of a building,” and “wherein [a] roll screen cassette is removable from the jamb pocket portion when the window assembly is in the assembled state such that the window frame remains in the assembled state when the screen is removed from the jamb pocket portion.”

Neither the Kramer reference nor the Thumann reference teaches or suggests, either alone or in combination, the above features as claimed by Applicants.

Kramer fails to disclose or suggest these features. Kramer fails to teach or suggest any method for removing the coiled closure member (such as a plastic sheet) from the storage jamb 36 while it is in an assembled state. (*See*, Kramer, at col.2, l.28 – col.8, l.6). Just the opposite, Kramer specifically notes that the closure member *must be assembled* within the frame. (Kramer, col 3, l.64-65). Thus, it appears that the only way to remove the closure member of Kramer from its storage jamb is to disassemble the storage jamb itself.

Thumann fails to fill the gap because Thumann also fails to disclose or suggest a structure having the claimed features. As opposed to Applicants claim, Thumann teaches a retractable covering included as part of an add-on unit that is mounted on top of the pre-existing closure frame. (*See, e.g.*, Thuman at FIGS, 1-5 and accompanying text). Thus, Thumann fails to

describe a covering that is mounted in a jamb pocket portion, much less an assembly, “wherein the retractable screen and spring biased roller [or roll screen cassette] are removable from the jamb pocket portion when the closure frame [or window frame] is in the assembled state such that the closure frame [or window frame] remains in the assembled state when the screen [or roll screen cassette] is removed from the jamb pocket portion,” as claimed.

Nor would one of ordinary skill in the art be motivated to combine the Kramer and Thumann references as suggested in the Office Action. First, Kramer specifically teaches away from the use of a spring biased roller to accumulate a retractable screen. Instead, Kramer repeated states that no such roller is necessary. (*See, e.g.*, Kramer at col. 4, ll.6-9 (noting that “there is *no need for the use of a vertical post* or coiling grooves to wind about) (emphasis added)). In fact, the Summary of the Invention of Kramer teaches away from such a roller – “It is an object of the present invention to provide an improved coilable closure device . . . which in the open position has a plastic sheet which upon itself coils in a tight roll *without a post*.” (Kramer, col. 1, ll.14-19) (emphasis added). Thus, one of ordinary skill in the art would not be motivated to modify the teachings of Kramer with the use of a roller as described in Thumann.

Additionally, it is not clear that one of ordinary skill in the art would arrive at the structure claimed by Applicants even if a motivation to combine Kramer and Thumann was present. The Office Action does not explain why one of ordinary skill in the art would choose certain teachings of Kramer, which teaches a roller-less assembly mounted in a door opening, over the incompatible teachings of Thumann, which teaches an assembly having a roller that is mounted on top of an existing frame. Would the screen be contained with a storage jamb, as taught by Kramer, or on the outside of a jamb, as taught by Thumann? Would the assembly use

a roller, or not use a roller? There is simply no explanation why these incompatible teachings would be reconciled in a manner consistent with Applicants' disclosure. Rather it appears the Office Action is improperly relying on hindsight.

For at least these reasons, Applicants respectfully submit that independent claims 58 and 65 are patentable over the combination of Kramer and Thumann, and Applicants respectfully request that this rejection of this claim be withdrawn.

## **2. Claims 59-64 and 66-71**

Dependent claims 59-64 and 66-71 depend from claims 58 and 65, respectively. Accordingly, dependent claims 59-64 and 66-71 should be allowed for at least the reasons set forth above for independent claim 19, and Applicants respectfully request that these rejections of these claims be withdrawn.

### **B. Rejections over Kramer in view of Thumann and further in view of Kersavage**

As discussed above, claims 58-71 are patentable over the combination of Kramer in view of Thumann because that combination fails to disclose each of the elements claimed in those Kersavage also fails to disclose or suggest these features of the claims.

Specifically, Kersavage does not disclose or suggest an assembly for enclosing an opening in a building, much less such an assembly having the claimed features, but instead, Kersavage relates to a protective structural module for protecting an enclosed space over a floor. For at least this reason, the combination of Kramer in view of Thumann and further in view of Kersavage fails to disclose all of the features claimed in claims 58-71. Accordingly, Applicants respectfully request that these rejections of these claims be withdrawn.

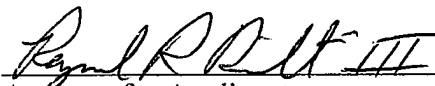
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**CONCLUSION**

Applicants respectfully submit that all of the pending claims are in condition for allowance and seeks early allowance thereof. If for any reason, the Examiner is unable to allow the application in the next Office Action and believes that an interview would be helpful to resolve any remaining issues, he is respectfully requested to contact the attorney on record.

Respectfully submitted,

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